

To: Pencak, Erica (ENRD)[Erica.Pencak@usdoj.gov]; Madigan, Andrea[Madigan.Andrea@epa.gov]; Gibbons, Melissa[Gibbons.Melissa@epa.gov]; Alan.Tenenbaum@usdoj.gov[Alan.Tenenbaum@usdoj.gov]
From: Yalen, Robert (USANYS)
Sent: Thur 8/13/2015 2:02:18 AM
Subject: FW: Red Mtn claims

(dropping Marc from the chain).

Under the Trust agreement, Multistate Trust property distributions must be approved by US EPA and “and the State in which

the relevant Multistate Owned Site is located.” MST Agreement § 2.11.1.

Regarding approval by “US EPA,” our general process has been for DOJ (usually me) to circulate a recommendation to both Melissa and the regional attorney. Assuming the recommendation is to approve, Melissa and the regional attorney consult with each other and whoever else need be consulted with, and report directly back to the Trust with a response (again, assuming an approval).

Because this three-part deal raises various potential issues (potential mining interest of Bennett; Forest Service acquisition; community and congressional interest; etc.), people may have a view that a different process is needed. Let me know if any of you want to change up the process. If not, I’ll plan to circulate a recommendation as soon as I can after getting Marc’s final documents.

Regarding approval by the “State,” the Trust agreement defines “State” to mean only the States that are trust beneficiaries (and parties to our settlement), which does not include Colorado. MST Agreement § 1.1.42. In this context, Marc usually asks us to confirm that the state’s approval is not required; we usually do, but we advise him that he should make efforts to see if the state has any objections. I am happy to follow that same process again, but perhaps because of the complexity of the issues it would more make sense for the Region to reach out to the state instead of putting it on Marc to do so. What do you all think?

From: Yalen, Robert (USANYS)
Sent: Wednesday, August 12, 2015 9:40 PM
To: Marc Weinreich (mw@g-etg.com)

Cc: Pencak, Erica (ENRD); 'Andrea Madigan'; Tenenbaum, Alan (ENRD); Gibbons, Melissa
Subject: Red Mtn claims

Following up on this.

Forest Service has advised us that because of the expiration of the Phase I in October, as well as the early, snowy winters in the area, they very much would like to close by October 10.

Because of the complex background to these sales, I imagine we will more internal review here (SDNY and DOJ) than we need for many of the MST property sales. In order to make sure that we have time to do this, it's important that we have final versions of the deal documents and recommendation packages at your earliest opportunity.

My understanding is that now that (i) Bennett has given up on the comfort letter and (ii) the FS issues have been resolved, there are no open issues other than review and approvals. If there are other moving parts to be worked out, please let me know.

From: Yalen, Robert (USANYS)
Sent: Monday, August 10, 2015 11:10 AM
To: Marc Weinreich (mw@g-etg.com)
Cc: Pencak, Erica (ENRD); Andrea Madigan; Tenenbaum, Alan (ENRD); Gibbons, Melissa
Subject: Ouray County

Marc:

After reviewing the issues, Forest Service has concluded that it ***does*** want to proceed with the donation of the Ouray County claims.

Can you remind us what is the next step on all three of these transactions? (I.e., the San Juan claims to Bennett; two of the Ouray claims to the OCHS; and the rest of the Ouray claims to USFS.)

If you think these are now ready for our review and approval, could you re-send us the final forms of agreements and recommendation packages?

Thanks.